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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,267	12/15/2003	Mihai Rasidescu	RP-01295-US2	1483

28735 7590 09/15/2005

BOMBARDIER RECREATIONAL PRODUCTS INC  
INTELLECTUAL PROPERTY DEPT  
PO BOX 230  
NORTON, VT 05907-0230

EXAMINER

HURLEY, KEVIN

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/734,267		RASIDESCU ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Kevin Hurley		3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

*HC*

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Group II, claims 11-22 in the reply filed on 26 July 2005 is acknowledged.
2. Claims 1-10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 26 July 2005.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim(s) 11-22 are product by process claims. Product-by Process claims are not limited to the manipulations of the recited steps, only the structure implied. See MPEP 2113. “[E]ven though product-by process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

Specifically the limitations “selected from” in the claims are part of the method of making the product.

5. Claims 11-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Wubbolts et al. 6,446,744.

Wubbolts et al. discloses a snowmobile platform, comprising:

a tunnel subassembly 86, an engine cradle subassembly 88 disposed forwardly of the tunnel subassembly, a front suspension subassembly 30 attached forwardly to the engine compartment subassembly, the tunnel subassembly and the engine cradle subassembly are formed integrally as a single component of the platform wherein the engine cradle subassembly is attached to the tunnel subassembly, an upper frame subassembly 84 connected to at least two of the tunnel subassembly, the engine cradle subassembly, and the front suspension subassembly, wherein the tunnel subassembly comprises a top 160 with left and right sides, a left side wall 162 extending downwardly from the left side of the top, and a right side wall extending downwardly from the right side of the top, wherein the tunnel subassembly forms an inverted U-shaped tunnel, wherein the engine cradle subassembly comprises a bottom pan 176 with left, right, front, and rear sides; a left side wall 172 attached to the left side of the bottom pan; a right side wall attached to the right side of the bottom pan; a front wall 206 attached to the front of the bottom pan; and a rear wall 170 attached to the rear of the bottom pan, wherein the front suspension subassembly comprises: a V-shaped member 294 with left and right sides; a left side wall attached to the left side of the V-shaped member; a right side wall attached to the right side of the V-shaped member; at least four A-arms 262, 221 pivotally connected to the V-shaped member, two on the left side and two on the right side; at least one shock absorber 326 connected

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between the left side wall and one of the A- arms on the left side of the V-shaped member; and at least one shock absorber 328 connected between the right side wall and one of the A- arms on the right side of the V-shaped member.

6. Claims 11-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishijima 2002/0100631.

Nishijima discloses a snowmobile platform, comprising:

a tunnel subassembly 138, an engine cradle subassembly 26 disposed forwardly of the tunnel subassembly, a front suspension subassembly 46 attached forwardly to the engine compartment subassembly, the tunnel subassembly and the engine cradle subassembly are formed integrally as a single component of the platform wherein the engine cradle subassembly is attached to the tunnel subassembly, an upper frame subassembly 180 connected to at least two of the tunnel subassembly, the engine cradle subassembly, and the front suspension subassembly, wherein the tunnel subassembly comprises a top 156 with left and right sides, a left side wall 142 extending downwardly from the left side of the top, and a right side wall 142 extending downwardly from the right side of the top, wherein the tunnel subassembly forms an inverted U-shaped tunnel, wherein the engine cradle subassembly comprises a bottom pan 167 with left, right, front, and rear sides; a left side wall 160 attached to the left side of the bottom pan; a right side wall attached to the right side of the bottom pan; a front wall attached to the front of the bottom pan; and a rear wall 168 attached to the rear of the bottom pan.

### *Conclusion*

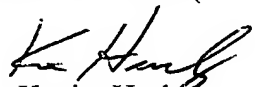
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7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references disclose snowmobile platform assemblies.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Hurley whose telephone number is 571-272-6646. The examiner can normally be reached on Monday-Friday 9:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kevin Hurley  
Primary Examiner  
Art Unit 3611

September 13, 2005